

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RICKEY LOUIS JACKSON,

Petitioner,

Case No. 05-C-1255

v.

SHERIFF DAVID BYRNES,

Respondent.

OPINION AND ORDER

Rickey Louis Jackson, who says that he is incarcerated in a county jail in Texas, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Having reviewed the Petition, the court concludes that it does not have jurisdiction over this matter because the Petitioner has not brought his action in the correct court. Jackson is not incarcerated in the Eastern District of Wisconsin and he is not in jail due to a Wisconsin judgment or a federal judgment. Under 28 U.S.C. § 2241(d),¹ the Petition must be filed where the Petitioner was convicted or incarcerated. See

¹ 28 U.S.C. § 2241(d) provides that:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

Bradshaw v. Story, 86 F.3d 164, 1656 (10th Cir. 1996). Therefore, the court lacks jurisdiction and ORDERS that this action is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that Jackson's "Petition to Proceed Without Prepayment of Fees and/or Costs" (filed December 5, 2005) IS DENIED.

IT IS FURTHER ORDERED that Jackson's "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 by a Person in Custody" (filed December 5, 2005) IS DENIED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court shall enter a judgment of dismissal as a separate document. See Federal Rule of Civil Procedure 58. This judgment shall provide that:

Petitioner Rickey Louis Jackson brought a petition for a writ of habeas corpus before the court, the Honorable Thomas J. Curran, District Judge, presiding, and the Petition having been dismissed for lack of jurisdiction,

IT IS ORDERED AND ADJUDGED

that this action is dismissed without prejudice.

Done and Ordered in Chambers at the United States Courthouse, Milwaukee, Wisconsin, this 6th day of December, 2005.

s/ Thomas J. Curran

Thomas J. Curran
United States District Judge